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4   UNITED STATES DISTRICT COURT

5   DISTRICT OF NEVADA

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7   PHILLIP J. LYONS,   Case No. 2:14-cv-778-APG-CWH

8   Plaintiff,   **Order**

9   v.

10   JAMES G. COX et al.,

11   Defendants.

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13   I.   **DISCUSSION**

14   On July 1, 2014, this Court entered a screening order and specifically noted "that

15   there [was] a discrepancy between the number of counts listed in the back of Plaintiff's

16   complaint and the number of enumerated fact sections in the front of the complaint . . .

17   Plaintiff enumerates six fact sections but then alleges seven counts . . . The Court

18   combines the seven counts into Plaintiff's six sections and addresses the complaint in

19   six counts." (Dkt. #2 at 4 n.1). On November 25, 2014, Defendants filed a partial

20   motion to dismiss which stated that Defendants "address Plaintiff's claims in the same

21   manner as the Court in its July 2014 screening order" and referenced the Court's

22   footnote identifying the discrepancy of counts and fact sections in the complaint. (Dkt.

23   #16 at 2 n.2). On December 5, 2014, Plaintiff filed a motion to correct/amend screening

24   order pursuant to Federal Rules of Civil Procedure 60(a) and a motion to stay the

25   motion to dismiss. (Dkt. #20, 21).

26   In the motion to correct/amend screening order, Plaintiff states that Defendants'

27   motion to dismiss reflects and highlights various mistakes and oversights in the Court's

28   screening order that should be examined and corrected before the case proceeds any

1   further. (Dkt. #20 at 2). Specifically, Plaintiff argues that the screening order's

2   discussion of facts and counts do not correlate with his version of the facts and counts

3   in the complaint. (*Id.*) For example, he states that the screening order's analysis of

4   Count III relates to Count IV in the complaint. (*Id.*) Plaintiff's motion discusses how the

5   screening order's version of the counts differs from how he enumerated his counts in

6   the complaint. (*See id.* at 2-4).

7   In his motion to stay the motion to dismiss, Plaintiff would like the Court to correct

8   the errors in its screening order before proceeding with the motion to dismiss. (Dkt. #21

9   at 4).

10   Pursuant to Federal Rule of Civil Procedure 60(a), "[t]he court may correct a

11   clerical mistake or a mistake arising from oversight or omission whenever one is found

12   in a judgment, order, or other part of the record." Fed. R. Civ. P. 60(a).

13   The Court denies Plaintiff's motion to amend/correct the screening order because

14   the Court has not made any clerical mistake or any mistake arising from an oversight or

15   omission. As noted in the screening order, Plaintiff's complaint contains discrepancies

16   between the number of counts listed in the back of the complaint and the number of

17   enumerated fact sections in the front of the complaint. Although the Court combined

18   Plaintiff's enumerated seven counts into six counts, a review of the screening order and

19   complaint demonstrates that the Court considered all allegations in the complaint and

20   addressed all claims in the complaint in those six counts. As such, the motion to

21   amend/correct screening order (Dkt. #20) is denied. The parties shall address the

22   counts in the complaint as set forth in this Court's July 1, 2014 screening order.

23   The Court grants Plaintiff's motion to stay the motion to dismiss (Dkt. #21)

24   pending the entry of this order. Plaintiff shall have 30 days from the entry of this order

25   to respond to the motion to dismiss (Dkt. #16). Defendants shall file a reply in the time

26   set forth by the Federal Rules of Civil Procedure.

27   **II.**   **CONCLUSION**

28   For the foregoing reasons, **IT IS ORDERED** that the motion to amend/correct

1   screening order (Dkt. #20) is denied.

2   **IT IS FURTHER ORDERED** that the motion to stay the motion to dismiss (Dkt.

3   #21) is granted.   Plaintiff shall file a response to the motion to dismiss within 30 days

4   from the entry of this order.   Defendants shall file a reply in the time set forth by the

5   Federal Rules of Civil Procedure.

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7   DATED this ____ day of January, 2015.

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9   United States District Judge

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